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GROUP 460

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 25

Application Number: 08/220851

Filing Date: 3/31/94

Appellant(s): Mottier

Kevin D. Kaschke

For Appellant

EXAMINER'S ANSWER

Art Unit: 2735

This is in response to appellant's brief on appeal filed 11/28/97.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. It is known that application number 08/220949 is related to this application and may be of interest, in the deciding of this application. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

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(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The appellant's statement in the brief that the claims stand or fall together is agreed with.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

No prior art is relied upon by the examiner in the rejection of the claims under appeal.

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(10) *New Prior Art*

No new prior art has been applied in this examiner's answer.

(11) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

1. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as the specification, as originally filed, does not provide support for the invention as now claimed.

Specifically, the claimed definition of a cycle as comprising "a first period when the alert is generated followed by a second period when the alert is not generated," is not support by the specification as originally filed.

2. Claims 19-22,24-27,29-32,34-37 rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

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(12) *New Ground of Rejection*

This examiner's answer does not contain any new ground of rejection.

(13) *Response to argument*

The sections of the specification pointed to by the applicant still do not support the invention as now claimed. The claims require the periodic generation of an alert for a predetermined number of cycles. This is supported by the specification. The claims then continue to require that each cycle includes a time when the alert is on and a time when the alert is off. This is not supported by the original specification. The original specification does support cyclic and periodic alerting. This alert can be a sinusoidal wave. A sinusoidal, or a triangular wave, especially those with a DC offset, and a square wave with DC offset would all be periodic and cyclic yet none of these signals would include periods of time in which the alert was "on" and periods of time in which the alert was "off". This further definition of cyclic and period was offered after the original filing to avoid the prior art, and is not supported by the original specification.

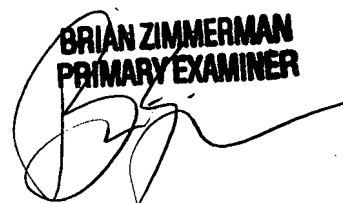
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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

BRIAN ZIMMERMAN
PRIMARY EXAMINER


BZ 1/27/98

Motorola, Inc.
Intellectual Property Department
600N. U.S. Highway 45
Libertyville, IL 60048